

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KRISTIN HARDY,

Plaintiff,

V.

R. MORENO, et al.,

Defendants.

Case No. 1:21-cv-00327-ADA-EPG (PC)

ORDER FOLLOWING DISCOVERY
DISPUTE HEARING HELD ON NOVEMBER
16, 2022

(ECF Nos. 77, 97, 105, & 109)

On November 16, 2022, the Court held a continued discovery dispute hearing. Plaintiff telephonically appeared on his own behalf. Counsel C. Hay-Mie Cho, Joseph Railey, and Chad Stegeman telephonically appeared on behalf of Defendants. Counsel Lucas Hennes telephonically appeared on behalf of third parties North Kern State Prison and California Department of Corrections and Rehabilitation Archives Unit.

After reviewing the filings by the parties and hearing oral arguments, and for the reasons stated on the record, IT IS ORDERED that:

1. Plaintiff's motion for a protective order regarding Defendants' document request (ECF No. 77) is GRANTED in part and DENIED in part.
 - a. Plaintiff is not required to provide legal research materials or his personal notes made about this case.
 - b. In all other respects, Plaintiff's motion is denied.
2. Plaintiff's motion to compel answers to admissions from defendant Chavez (ECF No. 97) is GRANTED in part and DENIED in part.

1 a. As to request for admission No. 9, Plaintiff's motion is denied as moot.

2 b. As to request for admission No. 24, Plaintiff's motion is granted.

3 Defendant Chavez has until December 15, 2022, to respond to this request
4 for admission.

5 c. As to Plaintiff's request for costs, it is denied.

6 d. In all other respects, Plaintiff's motion is denied.

7 3. Plaintiff's motion to compel non-parties California Department of Corrections and
8 Rehabilitation Archives Unit ("Archives Unit") and North Kern State Prison
9 ("NKSP") to produce documents (ECF No. 105) is GRANTED in part, DENIED
10 in part, WITHDRAWN in part, and HELD IN ABEYANCE in part.

11 a. As to Plaintiff's request to compel the Archives Unit to produce
12 documents, Plaintiff had indicated he now withdraws that motion.

13 b. As to Plaintiff's request for employment status records for defendant
14 Ceballos, which is listed as request No. 1 on the subpoena to NKSP,
15 Plaintiff's motion is granted in that NKSP is required to produce records
16 indicating that defendant Ceballos resigned or was terminated only if those
17 records specifically reference the searches described in the complaint
18 between January 1, 2019, through January 6, 2019. If any such records
19 exist, NKSP may redact personally sensitive information, such as
20 defendant Ceballos's social security number and birthdate. If NKSP
21 believes that the record(s) are sensitive and need heightened protection, it
22 may file a motion seeking such relief. If no responsive records exist, the
23 supplemental response should indicate that NKSP conducted a reasonable
24 search and that no such records exist.

25 c. As to Plaintiff's request for cell search records for Plaintiff's cell occurring
26 between January 1, 2019, and January 6, 2019, which is listed as request
27 No. 2 on the subpoena to NKSP, Plaintiff's motion is denied as moot.

28 d. As to Plaintiff's request for holding cell logs/records that indicate the name

1 and rank of the officer(s) that supervised Plaintiff while he was detained in
2 the gym holding cell on January 6, 2019, which is listed as request No. 3
3 on the subpoena to NKSP, the Court will defer ruling on Plaintiff's motion.
4 However, the request is granted in that the documents were also requested
5 from Defendants, and defense counsel shall undertake a further inquiry for
6 responsive documents based on the documents identified by Plaintiff,
7 including the confidential appeal inquiry. No later than December 15,
8 2022, Defendants shall supplement their response with either a further
9 production or information regarding the efforts undertaken to search for the
10 documents and a statement that no responsive documents were found.
11 Defendants shall also file a copy with the Court. After receiving a copy of
12 the filing, the Court will rule on Plaintiff's motion to compel NKSP as to
13 this request.

14 e. As to Plaintiff's request for emails/electronically stored information
15 regarding program status report(s) regarding the searches of Facility A that
16 were issued and authorized between the dates of January 1, 2019, through
17 January 6, 2019, which is listed as request 4 on the subpoena to NKSP, the
18 Court will defer ruling on Plaintiff's motion. However, the request is
19 granted in that the documents were also requested from Defendants, and
20 defense counsel shall undertake a further inquiry for responsive documents.
21 No later than December 15, 2022, Defendants shall supplement their
22 response with either a further production or information regarding the
23 efforts undertaken to search for the documents and a statement that no
24 responsive documents were found. Defendants shall also file a copy with
25 the Court. After receiving a copy of the filing, the Court will rule on
26 Plaintiff's motion to compel NKSP as to this request

27 f. As to Plaintiff's request for sanctions against the Archives Unit and NKSP,
28 it is denied because Plaintiff has not presented any evidence of spoliation

1 or sanctionable conduct.

2 4. Plaintiff's motion for third party subpoena, which was filed on October 31, 2022
3 (ECF No. 109), is DENIED.

4 5. As to Plaintiff's motion to compel regarding certain supplemental discovery
5 responses (ECF No. 113), Defendants have until December 15, 2022, to file their
6 opposition. In filing their opposition, Defendants must consider the rulings
7 already issued by the Court. To the extent Defendants' objections have already
8 been overruled, Defendants shall supplement their responses no later than
9 December 15, 2022. Defendant Moreno shall also provide Plaintiff with a copy of
10 his supplemental responses that includes defendant Moreno's response to request
11 for admission No. 1 and request for admission No. 2.

12 6. As discussed on the record, Defendants shall finish their supplemental production,
13 and if necessary, supplement their objections and responses, no later than
14 December 15, 2022. Plaintiff has until January 1, 2023, to file a motion to compel
15 regarding the supplemental responses.

16 7. No later than December 15, 2022, defense counsel shall file and serve a complete
17 collection of the verifications of Defendants' discovery responses.¹

18 IT IS SO ORDERED.

19 20 Dated: November 18, 2022

21 /s/ *Eric P. Groj*
22 UNITED STATES MAGISTRATE JUDGE

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¹ Defendants are not required to file a copy of the discovery responses.